IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2068 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NALIN K SHAH - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR NK MAJMUDAR for Petitioner(s) : 1,
MR DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/01/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order and/or direction

directing the respondents not to terminate the services of the petitioner from the post of senior clerk on the ground of non-appearing or non-passing of the examination prescribed under the Panchayat Service Senior Clerk and Aval Karkum Qualifying Examination Rules; 1976.

2. It is the contention on behalf of the petitioner that the petitioner has completed 45 years of age on 25th January, 1993. Ms. Moksha Thakker, learned advocate appearing for the petitioner has relied upon one Government Resolution dated 6.4.1998 by which, it appears that the employee, who had completed 45 years of age as on 17.9.1994 and have not passed the departmental examination, were exempted from passing the departmental examination. The said Resolution is directed to be taken on record. The petitioner was protected by way of interim order pursuant to the order passed by this Court dated 11.3.1997. Under the circumstances, the respondents are directed to consider the case of the petitioner in light of the Government Resolution dated 6.4.1998 and take an appropriate decision as to whether the case of the petitioner will be covered by the aforesaid Government Resolution dated 6.4.1998 or not and for that purpose, if necessary, the petitioner may given an opportunity of being heard. The concerned respondents are directed to take an appropriate decision as stated above within a

period of 3 months from the date of receipt of this order and communicate the outcome of the same to the petitioner. If the decision is adverse to the petitioner then the services of the petitioner shall not be terminated for a further period of 4 weeks from the date of communication so as to enable the petitioner to challenge the said order before the appropriate forum meaning thereby, the interim order granted by this Court is continued till the appropriate decision is taken by the concerned respondents as stated above and for a further period of 1 month thereafter from the date of communication.

3. With these, the present special civil application is disposed of.

[M.R.Shah, J.]

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